



Patent No.: 066821-0058

## DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, mailing address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter claimed and for which a patent is sought on the invention entitled **METHODS AND COMPOSITIONS FOR DEREPRESSION OF IAP-INHIBITED CAPASE**, the specification of which

is attached hereto.

was filed on December 24, 2003 as United States Application Number 10/748,128, or PCT International Application Number and was amended on (if applicable), or

is a Continuation-In-Part (CIP) of Application Number 10/302,811, filed November 21, 2002

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is known to me to be material to patentability in accordance with Title 37, Code of Federal Regulations, Section 1.56 including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35, United States Code, Section 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent or inventor's or plant breeder's right certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's, or plant breeder's rights certificate, or any PCT international application having a filing date before that of the application on which priority is claimed:

**Prior Foreign Applications(s):**

Number	Country	Day/Month/Year filed	Priority Claimed
			<input type="checkbox"/> <input type="checkbox"/>

I hereby claim the benefit under 35 United States Code, Section 119(e) of any United States provisional application(s) listed below.

**Prior Provisional Application(s):**

Application Number	Filing Date
60/331,957	November 21, 2001



hereby claim the benefit under 35, United States Code, Section 120 of any United States application(s) or 365(c) of any PCT international application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35, United States Code, Section 112. I acknowledge the duty to disclose information which is material to patentability as defined in 37, Code of Federal Regulations, Section 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

**Prior U.S. Application(s):**

Serial No. Filing Date Status: Patented, Pending, Abandoned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**POWER OF ATTORNEY:**

As a named inventor, I hereby appoint the registered practitioners of McDermott Will & Emery LLP, included in the Customer Number provided below, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

**CUSTOMER NUMBER 41552**

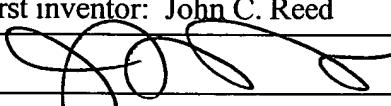
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McDERMOTT WILL & EMERY LLP  
4370 La Jolla Village Drive, Suite 700  
San Diego, CA 92122

Direct Telephone Calls to: Telephone 858.535.9001

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Full name of sole or first inventor: John C. Reed

Inventor's signature: 

Date: 9/2/04

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Residence: Rancho Santa Fe, California

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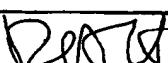
Citizenship: United States of America

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Full name of second inventor: Richard A. Houghten

Inventor's signature: 

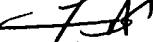
Date: Sept 30, 2004

Residence: Solana Beach, California

Citizenship: United States of California

Post Office Address: 239 Hill Street, Solana Beach, California 92075

Full name of third inventor: Adel Nefzi

Inventor's signature: 

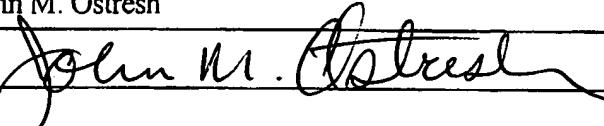
Date: 09/30/04

Residence: San Diego, CALIFORNIA

Citizenship: United States of America

Post Office Address: 10866 Macouba Place, San Diego, CA 92124

Full name of fourth inventor: John M. Ostresh

Inventor's signature: 

Date: 9/30/04

Residence: Encinitas, California

Citizenship: United States of America

Post Office Address: 315 La Veta Avenue, Encinitas, California 92024

Full name of fifth inventor: Clemencia Pinilla

Inventor's signature:

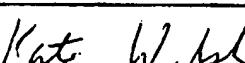
Date:

Residence: Cardiff, California

Citizenship: United States of America

Post Office Address: 1656 Freda Lane, Cardiff, California 92007

Full name of sixth inventor: Kate Welsh

Inventor's signature: 

Date: 8-24-04

Residence: San Diego, California

Citizenship: United States of America

Post Office Address: 3167 Clairemont Drive, #3, San Diego, California 92117

Full name of second inventor: Richard A. Houghten

Inventor's signature: 

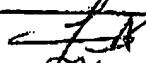
Date: Sept 30, 2004

Residence: Solana Beach, California

Citizenship: United States of California

Post Office Address: 239 Hill Street, Solana Beach, California 92075

Full name of third inventor: Adel Nefzi

Inventor's signature: 

Date: 9/30/04

Residence: San Diego, California

Citizenship: United States of America

Post Office Address: 10866 Macourba Place, San Diego, CA 92124

Full name of fourth inventor: John M. Ostresh

Inventor's signature: 

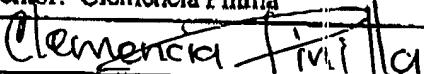
Date: 9/30/04

Residence: Encinitas, California

Citizenship: United States of America

Post Office Address: 315 La Veta Avenue, Encinitas, California 92024

Full name of fifth inventor: Clemencia Pinilla

Inventor's signature: 

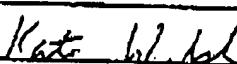
Date: 9/30/04

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Citizenship: United States of America

Post Office Address: 1656 Freda Lane, Cardiff, California 92007

Full name of sixth inventor: Kate Welsh

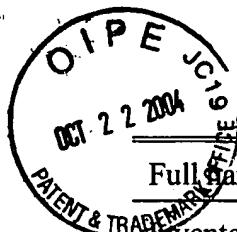
Inventor's signature: 

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Full name of second inventor: Richard A. Houghten

Inventor's signature:

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Full name of third inventor: Adel Nefzi

Inventor's signature:

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Full name of fourth inventor: John M. Ostresh

Inventor's signature:

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Residence: Encinitas, California

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Post Office Address: 315 La Veta Avenue, Encinitas, California 92024

Full name of fifth inventor: Clemencia Pinilla

Inventor's signature:

Date:

Residence: Cardiff, California

Citizenship: United States of America

Post Office Address: 1656 Freda Lane, Cardiff, California 92007

Full name of sixth inventor: Kate Welsh

Inventor's signature:

*Kate Welsh*

Date: 8-24-04

Residence: San Diego, California

Citizenship: United States of America

Post Office Address: 3167 Clairemont Drive, #3, San Diego, California 92117



Patent No.: 066821-0058

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant	:	Reed et al.	Customer No.: 41552
Appl. No.	:	10/748,128	Confirmation No.: 1734
Filed	:	December 24, 2003	
Title	:	METHODS AND COMPOSITIONS FOR DEREPRESSION OF IAP-INHIBITED CAPASE	
Grp./A.U.	:	1646	
Examiner:	:	To be Assigned	

Sir:

**SMALL ENTITY STATEMENT**

The U.S. Patent and Trademark (USPTO) permits parties that establish status as a Small Entity to pay certain reduced fees (all citations to 37 C.F.R. § 1.27 except as noted). To be entitled to Small Entity Status, a party must be at least one of the following:

**(1) Individual person:**

An individual person, including an inventor and persons to whom an inventor has transferred some rights in the invention. § 1.27(a)(1).

**(2) Small business concern:**

A business concern whose number of employees, including affiliates, does not exceed 500 persons. § 1.27(a)(2) (incorporating 13 C.F.R. § 121.802).

“Business concern” means individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative. If the concern is a joint venture, participation by foreign business entities may not be more than 49%. 13 C.F.R. § 121.105.

The “number of employees” is the average number of employees, including the employees of its domestic and foreign affiliates, based on numbers of employees for each of the pay periods for the preceding completed 12 calendar months. “Employees” includes all individuals employed on a full-time, part-time, temporary, or other basis. Part-time and temporary employees are counted the same as full-time employees. If a concern has not been in business for 12 months, use the average number of employees for each of the pay periods it has been in business. 13 C.F.R. § 121.106.

Concerns are "affiliates" of each other when one concern directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both concerns. 13 C.F.R. § 121.103(a).

**(3) Nonprofit organization:**

A university or other institution of higher education located in any country. § 1.27(a)(3) (ii)(A).

An organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a). Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(B),(D).

A nonprofit scientific or educational organization qualified under a nonprofit organization statute of a U.S. state. Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(C),(D).

Please note that a license to the Government resulting from a rights determination under Executive Order 10096 does not constitute a license that would prohibit claiming Small Entity Status. Similarly, for small business concerns and nonprofit organizations, a license to a Federal agency resulting from a funding agreement with that agency under 35 U.S.C. § 202(c)(4) is not a license that would prohibit claiming Small Entity Status. § 1.27(a)(4).

I hereby assert that I am empowered to sign on behalf of the party identified below ("Party"). Persons empowered to sign include, but are not limited to, an inventor him- or herself or an authorized officer of an assignee or licensee. *See* § 1.27(c)(2).

I have made a determination of the Party's entitlement to Small Entity Status, including a determination that all parties holding rights in the invention qualify for Small Entity Status. § 1.27(f).

I hereby assert that the Party has not assigned, granted, conveyed or licensed--and is under no obligation under contract or law to do so--any rights in the invention to any other party that would not qualify as a Small Entity. The other party having rights in the invention is **Torrey Pines for Molecular Studies**. Separate assertions of Small Entity Status should be obtained from each party having rights to the invention.

Inventor(s): Reed et al.  
Serial No.: 10/748,128  
Filed: December 24, 2003  
Page 3

I hereby assert that the Party is entitled to be accorded Small Entity Status by the USPTO for the application or patent identified above. § 1.27(c)(1).

I understand that Small Entity Status must be newly determined when the issue fee and each maintenance fee is due. If there is any change resulting in loss of entitlement to Small Entity Status, I acknowledge the duty to file a notification to the USPTO in this application or patent before or upon paying the fee. § 1.27(g).

I understand that Small Entity Status must be separately established in any related application, including continuation, divisional, continuation-in-part, continued prosecution application or reissue application. § 1.27(c)(4).

I understand that any attempt to establish Small Entity Status improperly, deceptively or fraudulently will be considered a fraud practiced on the USPTO and may result in abandonment of the application or jeopardize the validity and enforceability of any resulting patent. § 1.27(h).

Date 8/27/2004

  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
John Campbell  
Printed Name  
\_\_\_\_\_  
Director of Intellectual Property  
Title

The Burnham Institute  
10901 North Torrey Pines Road  
La Jolla, California 92037



Docket No.: 066821-0058

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant	:	Reed et al.	Customer No.: 41552
Appl. No.	:	10/748,128	Confirmation No.: 1734
Filed	:	December 24, 2003	
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Examiner:	:	To be Assigned	

Sir:

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A business concern whose number of employees, including affiliates, does not exceed 500 persons. § 1.27(a)(2) (incorporating 13 C.F.R. § 121.802).

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I have made a determination of the Party's entitlement to Small Entity Status, including a determination that all parties holding rights in the invention qualify for Small Entity Status. § 1.27(f).

I hereby assert that the Party has not assigned, granted, conveyed or licensed--and is under no obligation under contract or law to do so--any rights in the invention to any other party that would not qualify as a Small Entity. The other party having rights in the invention is **The Burnham Institute**. Separate assertions of Small Entity Status should be obtained from each party having rights to the invention.

Inventor(s): Reed et al.  
Serial No.: 10/748,128  
Filed: December 24, 2003  
Page 3

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I understand that any attempt to establish Small Entity Status improperly, deceptively or fraudulently will be considered a fraud practiced on the USPTO and may result in abandonment of the application or jeopardize the validity and enforceability of any resulting patent. § 1.27(h).

Date 8/11/04

Peggy Totzke  
Signature  
Peggy Totzke  
Printed Name  
Chief Operating Officer  
Title

Torrey Pines Institute for Molecular Studies  
3550 General Atomics Court  
San Diego, California 92121